

responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2. of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(g) of the Commandant Instruction M16475.1D, from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.

■ 2. A new temporary § 165.T09-227 is added to read as follows:

§ 165.T09-227 Safety Zone; Milwaukee Harbor, Milwaukee, WI.

(a) *Location.* The following is a safety zone bounded by the following coordinates: 43° 02.423' N 087° 53.167' W west to 43° 02.422' N 087° 53.442' W south to 43° 01.583' N 087° 53.550' W southeast to 43° 00.533' N 087° 53.091'

W east to 43° 00.619' N 087° 52.827' W north to 43° 01.587' N 087° 53.244' W north to ending waypoint 43° 02.423' N 087° 53.167' W located inside of Milwaukee Harbor. There will also be a northern zone prohibiting vessel traffic into the racing area at the following position 43° 02.473' N 087° 52.877' W to 43° 02.535' N 087° 53.020' W to 43° 02.565' N 087° 53.127' W to 43° 02.590' N 087° 53.260' W. There will also be a southern zone which also provides a lane for recreational vessels into inner Milwaukee Harbor. At the following position 43° 00.490' N 087° 52.660' W to 43° 00.429' N 087° 52.744' W to 43° 00.373' N 087° 52.886' W to 43° 00.343' N 087° 53.055' W to 43° 00.508' N 087° 53.246' W to 43° 00.597' N 087° 53.318' W to 43° 00.911' N 087° 53.467' W to 43° 01.100' N 087° 53.559' W to 43° 01.218' N 087° 53.612' W to 43° 01.311' N 087° 53.642' W to 43° 01.378' N 087° 53.617' W to 43° 01.504' N 087° 53.649' W (NAD 83)

(b) *Enforcement Periods.* This rule is effective from 9 a.m. on August 8, 2003 until 5 p.m. on August 10, 2003. This section will be enforced from 9 a.m. until 4 p.m. on August 8, 2003 for warm-ups; and from 9 a.m. until 5 p.m. on August 9 and again on August 10, 2003 for the races.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Milwaukee or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant or petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) This safety zone should not adversely affect shipping. However, commercial vessels may request permission from the Captain of the Port Milwaukee to enter or transit the safety zone. Approval will be made on a case-by-case basis. Requests must be in advance and approved by the Captain of the Port Milwaukee before transits will be authorized. The Captain of the Port Milwaukee may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF-FM.

Dated: July 30, 2003.

H.M. Hamilton,

Commander, U.S. Coast Guard Captain of the Port Milwaukee.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09-03-224]

RIN 1625-AA97

Safety Zone; Harley Davidson Motor Company 100th Anniversary Fireworks, Milwaukee, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Milwaukee Harbor for the Harley Davidson 100th Anniversary fireworks display. This safety zone is necessary to protect spectators and vessels from the hazards associated with the storage, preparation, and launching of fireworks. This safety zone is intended to restrict vessel traffic from a portion of Milwaukee Harbor.

DATES: This rule is effective from 9:50 p.m. (CST) on August 30, 2003 until 10:15 p.m. (CST) on September 1, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09-03-224 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marine Science Technician First Class Mike Schmitdke, Marine Safety Office Milwaukee, at (414)747-7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 16, 2003 we published a notice of proposed rulemaking (NPRM) for this regulation (68 FR 35615). The permit application was received such that we could receive public comment on the proposed rule. However, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days from the date of publication. The permit application did not allow sufficient time for publication of an NPRM followed by a temporary final rule effective 30 days after publication. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays and the possible loss of life, injury, and damage to property.

Background and Purpose

This safety zone is established to safeguard the public from the hazards associated with launching of fireworks inside Milwaukee Harbor. The size of the zone was determined by using previous experiences with fireworks displays in the Captain of the Port Milwaukee zone and local knowledge about wind, waves, and currents in this particular area.

This rule is effective from 9:50 p.m. (CST) on August 30, 2003 until 10:15 p.m. (CST) on September 1, 2003. The safety zone will encompass all waters and adjacent shoreline bounded by the arc of the circle with a 1680-foot radius with its center in approximate position 43° 02.16' N, 087° 53.18' W. These coordinates are based upon North American Datum 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Captain of the Port Milwaukee or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port Milwaukee may be contacted via VHF Channel 16.

Discussion of Comments and Changes

We received no comments for this rule.

Regulatory Evaluation

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not "significant" under the regulatory policies and procedures of the Department of Homeland Security.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities: the owners or operators of

vessels intending to transit or anchor in the vicinity of outer Milwaukee Harbor from 9:50 p.m. (CST) until 10:15 p.m. (CST) on August 30 and 31, 2003. And again on September 1, 2003 in the event of inclement weather.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only one hour on one day and late in the day when vessel traffic is minimal. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on scene representative. Before the effective period, we will issue maritime advisories widely available to users of the Port of Milwaukee.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee (*See ADDRESSES*).

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local government and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that Order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it

does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34), of the Instruction, from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–224 is added to read as follows:

§ 165.T09–224 Safety Zone; Harley Davidson Motor Company 100th Anniversary Fireworks, Milwaukee, Wisconsin.

(a) *Location.* The following area is a safety zone: All waters and adjacent shoreline bounded by the arc of a circle with a 1680-foot radius with its center in approximate position 43°02.16'N, 087°53.18' W, located in Milwaukee Harbor. These coordinates are based upon North American Datum 1983.

(b) *Enforcement periods.* This rule is effective from 9:50 p.m. (CST) on August 30, 2003 until 10:15 p.m. (CST) on September 1, 2003. This section will be enforced from 9:50 (CST) until 10:15 (CST) on August 30; again on August 31; and, in the event of inclement weather, during these same times on September 1, 2003.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is subject to the following requirements:

(1) This safety zone is closed to all marine traffic, except as may be

permitted by the Captain of the Port or his duly appointed representative.

(2) The “duly appointed representative” of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Milwaukee, Wisconsin to act on his behalf. The representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(3) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port or his representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone shall comply with all directions given to them by the Captain of the Port or his representative.

(4) The Captain of the Port may be contacted by telephone via the Command Duty Officer at (414) 747–7155 during working hours. Vessels assisting in the enforcement of the safety zone may be contacted on VHF–FM channels 16 or 21A. Vessel operators may determine the restrictions in effect for the safety zone by coming alongside a vessel patrolling the perimeter of the safety zone.

(5) Coast Guard Group Milwaukee will issue a Marine Safety Information Broadcast Notice to Mariners to notify the maritime community of the safety zone and restriction imposed.

Dated: July 30, 2003.

H.M. Hamilton,

Commander, U.S. Coast Guard, Captain of the Port, Milwaukee, Milwaukee, Wisconsin.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–03–246]

RIN 1625–AA97

Safety Zone; Sailing Vessels Red Witch, Pride of Baltimore II, Larinda, True North, Nina, HMS Bounty, Fair Jeanne—Kenosha, WI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone of 100 yards around the sailing vessels RED WITCH, PRIDE of BALTIMORE II, LARINDA, TRUE NORTH, NINA, HMS BOUNTY, and FAIR JEANNE. This safety zone is

necessary to protect the RED WITCH, PRIDE of BALTIMORE II, LARINDA, TRUE NORTH, NINA, HMS BOUNTY, and FAIR JEANNE from other vessels that may impede their safe navigation. This safety zone is intended to restrict vessel traffic within the vicinity of the sailing vessels RED WITCH, PRIDE of BALTIMORE II, LARINDA, TRUE NORTH, NINA, HMS BOUNTY, and FAIR JEANNE while they are underway on Lake Michigan.

DATES: This rule is effective from 12:01 a.m. (CST) on August 6, 2003 until 11:59 p.m. (CST) on August 10, 2003. This rule will be enforced when the vessels are underway, on Lake Michigan, and are within 3 nautical miles of shore.

ADDRESSES: Comments on this rule may be addressed to Commanding Officer, U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. (CST) and 3:30 p.m. (CST), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marine Science Technician Michael Schmidtke, Marine Safety Office Milwaukee, (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and (d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making the rule effective less than 30 days after publication. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

This Safety Zone is established to safeguard the vessel and the public. The size of the zone was determined by the necessities of safe navigation in the Captain of the Port (COTP) zone and local knowledge about wind, waves, and currents in this particular area.

The safety zone is effective from 12:01 a.m. (CST) on August 6, 2003 until 11:59 p.m. (CST) on August 10, 2003. This rule will be enforced when the RED WITCH, PRIDE of BALTIMORE II, LARINDA, TRUE NORTH, NINA, HMS